BOMBAY ACT No. IV OF 1862.[1]

[THE MARKETS AND FAIRS ACT, 1862.][1]

[*24th April, 1862.*]

Repealed in part, by Act 12 of 1873.
Repealed in part, by Act 12 of 1876.
Repealed in part and amended by Bom. 3 of 1886.
Adapted and modified by the Adaptation of Indian Laws Order in Council.
Amended by Bom. 17 of 1945.*

An Act for regulating the establishment of markets and fairs.

Preamble.

WHEREAS the establishment of new markets or fairs in the neighbourhood of places where markets or fairs have been previously established leads to disputes between the owners of the lands on which such new and previously established markets or fairs are held, and such disputes not unfrequently occasion breaches of peace and serious inconvenience to the frequenters of such markets or fairs; It is enacted as follows :—

No new market or fair to be established without permission.

1. [2]* * * * * No person shall establish a new market or fair without permission, in writing, from the Magistrate of the district.

Penalty for attempt to establish without license.

If any person shall attempt to establish a new market or fair without such license, he shall, on conviction by [3][a Magistrate of the first class], be subject to a fine not exceeding two hundred rupees, or, in default of payment, to simple imprisonment for any period not exceeding two [4]* months.

Person desiring to establish to apply to Magistrate.

2. When any person desires to establish a new market or fair, he shall make application, in writing, to the Magistrate of the district.

Contents of application.

The application shall specify—
the name of the place at which it is proposed to establish such new market or fair;
the days on which it is to be held;
the name of the place where the nearest existing market or fair is held, and the days on which it is held;
the distance, in English miles, between the two places; and
the reasons of the applicant for desiring to establish a new market or fair.

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[1] No Statement of Objects and Reasons was published. For the Bill, as introduced, *see Bombay Government Gazette*, 1862, Supplement, p. 49; for Report of the Select Committee, *see ibid*, p. 77, and for Proceedings in Council, *see ibid*, pp. 49, 76 and 95.
The short title was given by the Bombay Short Titles Act, 1921 (Bom. 2 of 1921).
[2] The words "After the passing of this Act" were repealed by the Repealing Act, 1873 (12 of 1873).
[3] These words were substituted for the words "the Magistrate" by the Bombay General Clauses Act, 1886 (Bom. 3 of 1886), Schedule B. This Schedule is printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. 1 of 1904).
[4] The word "calendar" was repealed by the Bombay General Clauses Act, 1886 (Bom. 3 of 1886).
* This Act has been re-enacted and the amendments made by section 9 and Schedule E of the said Act have been continued in force by Bom. 52 of 1947, s. 2.

Procedure on application.

3. On receipt of the application, the Magistrate shall issue a proclamation stating the desire of the applicant to establish a market or fair at the place named by him and the days on which it is proposed to be held and calling upon any person who may have any objection to the establishment of the market or fair to state his objection, in writing, within six weeks from the date of the proclamation.

Publication of proclamation.

The proclamation shall be fixed in a conspicuous place in the village or town in or near to which it is proposed that the new market or fair shall be held, and a copy of the same shall be affixed at the police-station within the jurisdiction of which the village or town is situated, and in the Court of the Magistrate.

Notice to land-owner of neighbouring market.

If it shall appear that any existing market or fair is held within a distance of four miles from the place where it is proposed that the new market or fair shall be established, the Magistrate shall cause a notice, to the effect of the proclamation, to be served upon the owner of the land where such existing market or fair is held.

The proclamation and notice (if any) shall be issued and served at the expense of the applicant.

Order permitting establishment.

4. If, within the time specified in the proclamation and notice (if any), no objection is preferred to the establishment of the proposed market or fair, the Magistrate of the district shall pass an order permitting it to be established.

Inquiry into objection.

If within the time specified any objection is preferred, the Magistrate of the district shall inquire into the objection, and pass such order as may appear proper under the circumstances of the case.

5. [*Markets and fairs established prior to passing of Act.*] *Rep. Act XII of 1876.*

Appeal.

6. Every order passed by a [1][District Magistrate] under [2][section 4] shall, within six weeks, be open to appeal to the Commissioner [3]* * and the order of the Commissioner shall be final.

Penalty for contravening, disobeying, or opposing order.

7. Every person who shall contravene, disobey, or oppose any order duly made under this Act, shall be liable to a fine not exceeding two hundred rupees, or, in default of payment, to imprisonment [4]* * * * for any period not exceeding two * *months.

Extent.

8. This Act shall not extend to [5]the Greater Bombay.]

Exemption of religious assemblages.

9. Nothing in this Act shall be held to apply to assemblages of people collected at, or concerned in, the inauguration of sacred edifices, or collected at or concerned in, any other religious festivals or ceremonies not forming a part of a fair or market.

Saving of general powers of Provincial Government.

10. Nothing in this Act shall be held to restrict the general powers of [6][the Provincial Government] to control the order of the [1][District Magistrate] or Commissioner [3]* * in regard to market or fairs.

11. [*Meaning of "Magistrate".*] *Rep. Bom. III of 1886.*

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[1] These words were substituted for the word "Magistrate" by the Bombay General Clauses Act, 1886 (Bom. 3 of 1886), Schedule B. This Schedule is printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. 1 of 1904).

[2] The word and figure "Section 4" were substituted for the words "this Act", *ibid.*

[3] The words "of Police" were repealed, *ibid.*

[4] The words "of either kind" and the word "calendar" were repealed by the Bombay General Clauses Act, 1886 (Bom. 3 of 1886).

[5] These words were substituted for the words "the Islands of Bombay and Colaba" by Bom. 17 of 1945, s 9, Sch. E, read with Bom. 52 of 1947, s. 2, proviso.

[6] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.